



RESPONSES TO INFORMATION REQUESTS (RIRs)

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India: First Information Reports (FIRs), including procedures and time frames followed by police to inform complainants that an investigation will not be conducted

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Procedures to register a First Information Report

The Commonwealth Human Rights Initiative (CHRI)--a non-governmental organization (NGO) headquartered in New Delhi that promotes human rights education and advocacy in Commonwealth countries (CHRI n.d.)--and the Maharashtra state police explain that for crimes categorized as "cognizable" offences, a complainant can lodge a First Information Report (FIR) directly with the local police (ibid. 2009, 22; Maharashtra Police n.d.). Examples of cognizable crimes, notes the CHRI, include murder, rape, rioting, theft, burglary, assault, child molestation, kidnapping and trafficking (CHRI 2009, 22). The CHRI explains that cognizable offences are crimes that generally require "a more urgent response" by the police (ibid.).

Once the FIR is recorded, the police begin the investigation and make inquiries (ibid.; Maharashtra Police n.d.). The *Hindustan Times*, a New Delhi-based, English-language newspaper, notes that when an FIR is registered with the police, it becomes the responsibility of the police to report the case to a magistrate, investigate the crime, and proceed with other police work, such as making arrests and preparing the case for prosecution (30 Dec. 2009).

FIRs can be registered by a victim, a witness or someone else with knowledge of the crime (CHRI 2006, 3-4). The complainant can report the crime either in writing or orally (ibid., 7). If the complaint is submitted orally, the police are also required to read the FIR back to the complainant before the complainant signs it (ibid. 2009, 23). If the incident is reported by telephone, the complainant should later report in person at the police station (Maharashtra Police n.d.). The police are required to give a copy of the FIR to the complainant free of charge (CHRI 2009, 22; Maharashtra Police n.d.; Professor 3 Mar. 2011). FIRs include information on the place, date, and time of the incident, as well as details of what happened (CHRI 2009, 23). According to the CHRI, complainants have a right to register an FIR at any police station and police cannot legally refuse to register it (ibid., 22). However, the CHRI notes that it is more expedient to lodge the FIR at the station with jurisdiction for the area in which the crime occurred (ibid.).

"Non-cognizable" crimes, such as cheating, fraud, forgery, bigamy and creating a public nuisance, are registered with a magistrate; the police only investigate the crime if directed by the magistrate (ibid.). The CHRI states that if the crime is a non-cognizable offence, the police are still supposed to record the matter in the daily diary, supply the complainant with a signed copy of the entry, and direct the person to the magistrate (ibid.). Similarly, on its website, the Maharashtra police indicates that police officers record the complaint of a non-cognizable offence in writing, give a copy to the complainant, but only begin an investigation with the permission of the Magistrate (n.d.).

Media sources report that, in December 2010, the Delhi High Court ruled that people accused of a crime are entitled to receive a copy of the FIR within 24 hours (EGov 7 Feb. 2011; *The Times of India* 1 Feb. 2011; *Bureaucracy Today* 7 Dec. 2010). Following this, the Delhi police began uploading FIRs for non-sensitive cases onto its website to be available for downloading for a fee of 25 Indian Rupees [0.54 Canadian Dollars (XE.com 10 Mar. 2011)] (EGov 7 Feb. 2011; *The Times of India* 1 Feb. 2011).

Difficulties registering FIRs

Several sources report that complainants in India often experience difficulties registering FIRs with the police (Human Rights Watch 2009, 9; *The Hindu* 31 Dec. 2009; *Hindustan Times* 30 Dec. 2009; The Press Trust of India 5 Jan. 2010; Professor 3 Mar. 2011). In fact, Indian officials have reportedly noted that the public's biggest complaint against the police is that they do not register FIRs (*The Hindu* 31 Dec. 2009). Human Rights Watch indicates that vulnerable communities, such as *Dalits* ("untouchables"), poor people and victims of domestic violence, are particularly affected (2009, 9). Similarly, *Hindustan Times* states that registering FIRs is especially challenging for people from disadvantaged social groups and in rape cases; less than 12 percent of rapes reported to the police resulted in FIRs (*Hindustan Times* 30 Dec. 2009).

Following a case in which the police did not register an FIR for a complaint of molestation against a high-ranking Haryana police official, the Indian prime minister reportedly acknowledged that the police often did not register FIRs because of "the existence of vested interests" (qtd. in The Press Trust of India 5 Jan. 2010). The Madhya Pradesh home minister noted that non-registration of FIRs is a "common phenomenon in all the States to conceal the exact figures of crimes that are actually committed" (qtd. in *The Pioneer* 30 Dec. 2009). Human Rights Watch reports that police officers experience political pressure to register fewer FIRs in order to give the impression that there is less crime than is the case, and that junior officers face reprimand or suspension for registering too many FIRs (2009, 46). Some officers are also reluctant to register FIRs in order to lessen their workload (Human Rights Watch 2009, 47). Human Rights Watch also notes that police officers typically request bribes to register FIRs (ibid., 9).

Media sources indicate that in December 2009, the Union Home Ministry sent a directive for police forces to register all complaints as FIRs (*The Hindu* 31 Dec. 2009; *Hindustan Times* 30 Dec. 2009). However, in 2010, Indian media sources continued to report on complainants encountering difficulties in registering FIRs with the police (DNA 21 Dec. 2010; *Kashmir Times* 17 Oct. 2010; *Hindustan Times* 13 Oct. 2010); and 2011 has seen still more reports (ibid. 13 Jan. 2011; ibid. 12 Feb. 2011; DNA 27 Feb. 2011). In one example reported by the Mumbai-based *Daily News and Analysis* (DNA), it took two months before the Manikpur police registered an FIR in a case of alleged

kidnapping and abduction brought forward by the Child Welfare Committee (CWC) (ibid.). Other cases in which police initially did not register the FIR include a woman who, after being assaulted by her husband, sustained multiple knife wounds (DNA 21 Dec. 2010) and an eleven-year-old boy who died of unnatural causes after falling into an open drain (*Hindustan Times* 13 Jan. 2011). The *Kashmir Times* reports that, of the 111 cases of civilian killings in Kashmir between 11 June 2010 and 17 October 2010, the police did not register FIRs in at least 72 of the cases (17 Oct. 2010).

The CHRI states that if the police refuse to register an FIR, the complainant can report it to the head of the district police or to the local magistrate (2009, 23-24). *Hindustan Times* reports on some cases in which the Bombay High Court ordered the police to register FIRs (13 Jan. 2011; 13 Oct. 2010).

Guidelines for not conducting an investigation

Information about a specific time frame in which police are required to inform complainants that an investigation will not be conducted could not be found among the sources consulted by the Research Directorate. However, the CHRI states that the police are not required to investigate a complaint in an FIR if it "is not serious in nature" or if there is insufficient evidence to warrant an investigation (CHRI 2006, 6). For either reason, the police must record the reason for not investigating and inform the complainant (ibid.). The CHRI also indicates that if, after making a few inquiries, the police decide to close a case, they must give their reasons to the court and inform the complainant, who can challenge the closure before the court (CHRI 2009, 24). This information is corroborated by a special public prosecutor for human rights court, as quoted by *The Times of India*, who noted that a case closed without the knowledge of the complainant can be reopened for further investigation (2 Feb. 2011). In addition, the CHRI notes that in cases in which police proceed "excessively slowly" or ignore obvious lines of investigation, the complainant can report the matter to senior officials or to the local magistrate (CHRI 2009, 25). However, CHRI states that there are no specific laws that require the police to keep the complainant informed about the progress of a case (ibid., 24).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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